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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,224	01/26/2004	Ron Morris	03-1105	1731

7590
RICHARD J. POE
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Conway, AR 72032

03/06/2007

EXAMINER

SAETHER, FLEMMING

ART UNIT

PAPER NUMBER

3677

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/765,224	MORRIS, RON	
	Examiner	Art Unit	
	Flemming Saether	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-21,23,24 and 26-33 is/are pending in the application.
- 4a) Of the above claim(s) 19,21,24,26 and 28-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18,20,23 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restriction

Claims 19, 21, 24, 26 and 28-33 remain in the application as withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Sachs (US Des 341,127). Sachs shows a bolt having a head at one end, a threaded shank at an opposite end with a non-round portion between the head and shank and a cross-section

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 23 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacLean as applied to claims 22 and 25 above and further in view of Emerson (US 2,370,944). MacLean discloses the retainer being a nut type but, does not disclose the retainer being a cotter key. Emerson discloses a bolt (16) held in securement with a rail member (25) by a retainer formed as a cotter key received through a cross-hole (21) in

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the bolt. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to replace the nut type retainer of MacLean with a cotter key as disclosed in Emerson because the cotter key would be more economical. Indeed, a cotter key is less costly than a nut not to mention the cost associated with the separate threads having to be rolled onto the bolt. Once the combination was made, the cotter key and cross hole would be located adjacent the square portion of the nut.

Response to Remarks

Initially, to clarify the claim identifiers in light of the non-responsive amendment: The claims which are canceled do not have to be reproduced only the claim number(s) followed by the --(canceled)-- identifier is required, so that was actually correct in the non-compliant amendment; however, the claims which are withdrawn must be reproduced following the --(withdrawn)-- identifier which is why the non-compliant amendment was held as non-compliant. Furthermore, applicant's identifier "(previously new/now original)" is improper and should be simply --(previously presented)--. If applicant has any questions regarding the identifiers he is encouraged to call the undersigned examiner.

Applicant's amendment has obviated the claim objections and rejection under 35 USC § 112 second paragraph.

In regards to the 35 USC § 102 involving Sachs, applicant argues that claim 18 defined over Sachs because the hole in Sachs is a slot in the non-round section whereas the claims require the hole "at or near the junction of the non-round cross section and the round threaded portion". In response, while the examiner understands applicant's position the examiner does not agree because the claim language does not preclude the hole from being in the non-round section. All the claims require is the hole is *near* the juncture which is not prohibiting it from being within the non-round section. Applicant also argues that in Sachs the hole is a bolt and as such would not function in the same manner as applicant's invention. In response, claim 18 does not include any reference to how the hole is used and although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In regards to the 35 USC § 103 involving MacLean in view of Emerson, applicant argues that neither MacLean nor Emerson works in the fashion as applicant's invention. In response, the examiner disagrees since MacLean works in a similar fashion in that as the bolt is held firm by the nut near the head, it also is held from rotating as the nut is tightened and loosened. Applicant's argument that the rotation prevention is "not while the outer nuts are being tightened and loosened" is not understood since MacLean makes it clear that the bolt is mounted to the plate prior to the nut (23) being threaded onto threads of the bolt (page 2, column 1, lines 23-29) thus inherently, the bolt would be held from rotating. In fact, the only difference between MacLean and the claims of

the instant invention is the manner by which the bolt is held in position. Where MacLean uses a nut, the claims of the instant invention uses a cotter pin. To make up the deficiency of MacLean, the reference to Emerson was applied solely for its' teaching of using a cotter pin as a retaining means in a similar environment.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

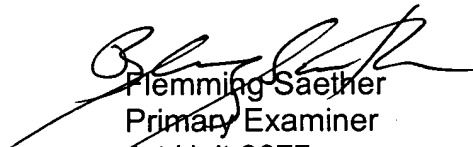
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Flemming Saether
Primary Examiner
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